

KEEGAN, WERLIN & PABIAN, LLP

ATTORNEYS AT LAW  
265 FRANKLIN STREET  
BOSTON, MASSACHUSETTS 02110-3525  
  
(617) 951-1400

TELECOPIERS:  
(617) 951-1354  
(617) 951-0586

DAVID S. ROSENZWEIG  
E-mail: drosen@kwplaw.com

January 7, 2004

Mary L. Cottrell, Secretary  
Department of Telecommunication and Energy  
One South Station, 2<sup>nd</sup> Floor  
Boston, MA 02110

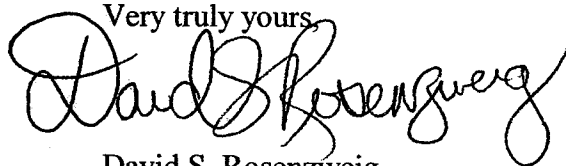
Re: Boston Edison Company, D.T.E. 03-112

Dear Secretary Cottrell:

Enclosed please find the responses of Boston Edison Company d/b/a NSTAR Electric ("Boston Edison" or the "Company") to the following information requests of the Department of Telecommunications Energy in the above-referenced proceeding: DTE-1-1, DTE-1-3, DTE-1-5, and DTE-1-7 through DTE-1-16. The Company will submit its responses to information requests DTE-1-2, DTE-1-4 and DTE 1-6 as soon as possible.

Thank you for your attention to this matter. Please contact me at your convenience if you have any questions relating to this filing.

Very truly yours,



David S. Rosenzweig

Enclosures

cc: Kevin Penders, Hearing Officer  
Joseph Tiernan, Electric Power Division  
Colleen McConnell, Assistant Attorney General  
Bryant K. Robinson  
Neven Rabadjija, Esq.  
Stephen J. Carroll  
Tam Ly

Information Request DTE-1-1

Refer to Exh. NSTAR-BKR-1, at 4-5. The Company states that the Property is comprised of approximately 40 acres of residentially zoned land, primarily located in Newton.

- A. Please explain why the Company originally purchased the land.
- B. Please explain whether the Company ever used the Property for the purpose of utility service.

Response

The Company purchased the Property for non-utility purposes in 1973 and has not used the Property for utility purposes at any time since its purchase.

Information Request DTE-1-3

Refer to Exh. NSTAR-BKR-1, at 6-8. The Company states that it had originally notified parties interested in purchasing the Property that the Company would be conducting a sealed bid sale, with all bids due on February 21, 2003. The Company also states that it agreed to extend the deadline for accepting bids to June 20, 2003. During any stage of the bidding process, were bidders or interested parties made aware of any bids or any other information pertaining to the bids (e.g., identity of other bidders, number of bids received, etc...)?

Response

Bidders and interested parties were never made aware of any bids or other information pertaining to the bids during any stage of the bidding process.

Information Request DTE-1-5

Refer to Exh. NSTAR-BKR-1, at 8. The Company states its "decision to seek a second round of bids after its initial conforming bids were received resulted in the Company receiving a higher price for the Property than if the Company had not sought a second round of bids." Provide support for the Company's assertion, including complete and detailed documentation.

Response

Please see the Company's response to Information Request DTE-1-4.

Information Request DTE-1-7

Refer to Exh. NSTAR-BKR-1, at 5. The Company states that "as part of the Department-approved Settlement [in D.P.U./DTE 96-23], the Company agreed to treat its costs associated with the property as a component of its transition charge and to return the net proceeds of any subsequent sale in the Residual Value Credit." Refer to Exh. NSTAR-BKR-1, at 6, the Company states marketing efforts to sell the Property via a competitive auction process began in January 2003. Explain why the Company waited nearly five years from the issuance of D.P.U./D.T.E. 96-23, before beginning the process of selling the Property.

Response

Upon the Department's approval of the Company's Restructuring Settlement in 1998, the Company prioritized the divestiture of its fossil generating facilities in order to comply with the divestiture requirements of the Restructuring Settlement and the Electric Restructuring Act of 1997. The Company determined that including the Property as part of its fossil divestiture process would not maximize the value for the Property because bidders for the Company's former generating assets would not likely perceive the Property as compatible with such assets. After completing the fossil divestiture in 1998, the Company next proceeded to divest its nuclear asset (the Pilgrim Nuclear Power Station) in 1999 and merged with Cambridge Electric Light Company ("Cambridge"), Canal Electric Company ("Canal") and Commonwealth Electric Company ("Commonwealth") to form NSTAR.

After the completion of the merger, the NSTAR Electric companies (Boston Edison Company, Cambridge and Commonwealth) and Canal focused on divesting the remainder of their collective generation assets, which, in addition to the Property, included Cambridge's interest in Blackstone Station ("Blackstone") and Canal's interest in Seabrook Station ("Seabrook"). With regard to the Property, the Company began discussions with its broker to market the Property (see Company response to Information Request AG 1-3 regarding November 2000 and January 2001 opinions of value for the Property received from Insignia). However, between the years 2000 and 2002, NSTAR Electric focused its attention on divesting its Blackstone assets (in response to the Department's order in Cambridge Electric Light Company/Commonwealth Electric Company, D.T.E. 99-90 (2001) and its Seabrook assets (in response to New Hampshire divestiture requirements).

During this period, however, the Company monitored the real estate market in Greater Boston and determined that, because of rising property values in the area, the Property's value was likely increasing. Accordingly, NSTAR Electric focused on its Blackstone and Seabrook divestitures from 2000 through 2002 with a comfort level that the value of the Property was not declining over this period. Upon the completion of the Seabrook divestiture in 2002, the Company determined that the market for the Property was favorable and proceeded to commence marketing the Property through Insignia in January 2003.

Information Request DTE-1-8

Please produce any studies in regards to the value of the Property. In addition, provide a comparison and explanation of the assumptions made in deriving the estimates used in each study.

Response

Please refer to the Company's response to Information Request AG-1-3.

Information Request DTE-1-9

Please explain in detail why the purchase price for the Property maximizes the value of the assets. In your answer, include all assumptions supporting the valuation under the purchase and sale agreement.

Response

The purchase price for the Property represents its maximum value because it was arrived at through an open and competitive auction, consistent with Department precedent. See, e.g., Boston Edison Company, D.T.E. 97-113 (1998); Boston Edison Company, D.T.E. 98-119/126 (1999). Potential bidders were not allowed to exchange information regarding their bids during the auction and the bid results were kept confidential by the Company and its broker. This process maximized the competitive aspects of the auction. Moreover, once negotiations with the highest first round bidder proved unsuccessful, the Company's decision to offer a second round of bidding resulted in a winning bid that significantly exceeded the winning bidder's initial bid. Accordingly, the Company's open and competitive auction process maximized the value of the Property for the Company's customers.



Information Request DTE-1-10

Please describe the process used in retaining the real estate sales agent Insignia/ESG Inc.

Response

The Company retained Insignia/ESG Inc. ("Insignia") based on the prior relationship that the Company had with one of its principals, Mr. Arthur M. Agnew, III and the experience of Insignia of marketing real estate similar to the Property. Prior to his association with Insignia, Mr. Agnew marketed other properties for the Company through his prior employer. His association with Insignia led to the Company's interest in Insignia. Upon review of Insignia's marketing experience and techniques, the Company was particularly impressed with Insignia's use of modern, Internet-based means of communicating with potential buyers. Accordingly, the Company retained Insignia as its broker for the sale of the Property.

Information Request DTE-1-11

Please explain why the Company used a sealed bid sale method as opposed to other methods? As part of this response, discuss whether another sales method may have resulted in a higher purchase price.

Response

The Company used a sealed bid method for the sale of the Property because this method is consistent with that used by the Company in previous auctions. See Boston Edison Company, D.T.E. 97-113, at 9 (1998); Boston Edison Company, D.T.E. 98-119/126, at 14, 18 (1999). The Department found in those proceedings that the Company's auction process for the properties subject to sale was open and competitive and maximized the value of those properties for customers. Id. at 12; Boston Edison Company, D.T.E. 98-119/126, at 18-19 (1999). Accordingly, the Company used a sealed bid process to sell the Property.

Information Request DTE-1-12

Does the Company have information regarding the buyer's intended use of the property? If so, please provide all information regarding the buyer's intended use of the Property.

Response

The Company has no information regarding the buyer's current intentions for the Property. Although not confirmed by the Company, such information might be found on the City of Newton's website, [www.ci.newton.ma.us](http://www.ci.newton.ma.us).

Information Request DTE-1-13

Refer to Exh. NSTAR-BKR-3(a). Please provide copies of "Conceptual Development Plan A" and "Conceptual Development Plan B." Include any and all research materials that went into the development of these "Conceptual Development Plans."

Response

Please see Attachments DTE-1-13(a) and (b) for copies of the requested materials.

**Boston Edison  
Company**

**STALE** - ASSOCIATES INC.  
8 STATE STREET  
BOSTON  
MASSACHUSETTS  
02109-3076  
617 734-1844  
617 734-0810

[illegible]

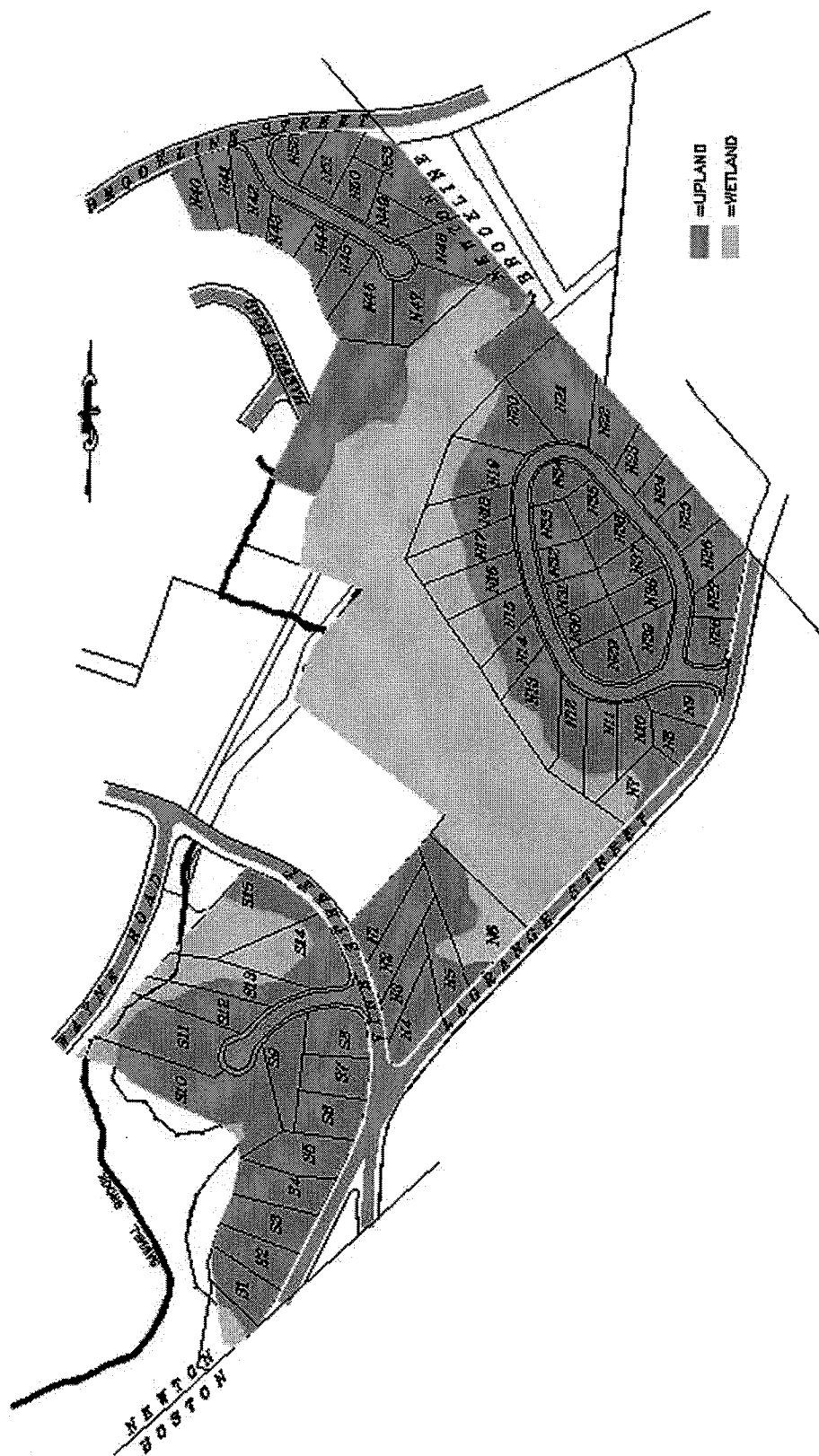
CONCEPTUAL  
DEVELOPMENT PLAN A

ALL INFORMATION CONTAINED  
HEREIN IS UNCLASSIFIED  
DATE 08-14-2011 BY 60322  
UCBAW

DATE 10/12/54  
PAGE 10

100-443882

**EXHIBIT 2**



Project No.

Boston Edison  
Company

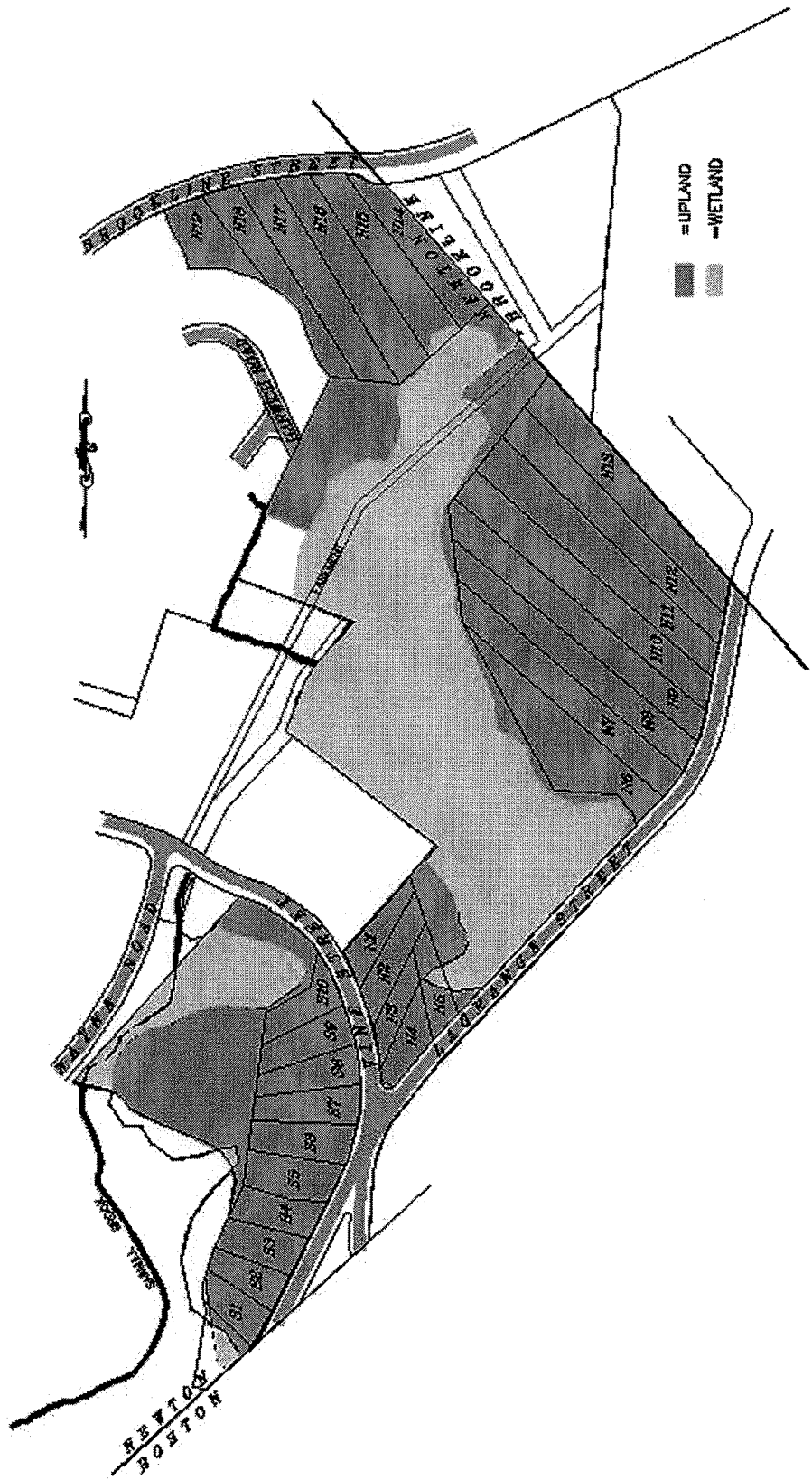
Prepared by:  
HEAL'S ASSOCIATES INC.  
1000 W. STREET  
BOSTON, MASSACHUSETTS  
02118-2000  
TEL: 508-266-1000  
FAX: 508-266-1001

NOTES:  
1. THIS MAP IS A PRELIMINARY CONCEPTUAL DEVELOPMENT PLAN FOR THE PROPOSED BOSTON EDISON COMPANY FACILITIES. IT IS NOT A FINAL ENGINEERING DESIGN. THE BOSTON EDISON COMPANY WILL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND AGENCIES. THE BOSTON EDISON COMPANY WILL BE RESPONSIBLE FOR OBTAINING ALL NECESSARY PERMITS AND APPROVALS FROM THE APPROPRIATE AGENCIES AND AGENCIES.

CONCEPTUAL  
DEVELOPMENT PLAN B  
BOSTON EDISON PROPERTY  
LANDSCAPE AND SITE PLAN  
BOSTON EDISON PROPERTY  
DATE: 10/10/00  
SCALE: 1"=100'

PROJECT NUMBER: 0000000000  
PROJECT NAME: BOSTON EDISON PROPERTY  
DATE: 10/10/00  
SCALE: 1"=100'

EXHIBIT 3



Information Request DTE-1-14

Please provide copies of any and all agreements/contracts between the City of Newton and Cornerstone Corporation that were entered into for the purpose of purchasing the property.

Response

The Company has no such agreements/contracts in its possession.

Information Request DTE-1-15

Refer to Exh. NSTAR-BKR-1 (Supp), at 6. Please provide copies of the "site development report."

Response

Please see Attachment DTE-1-15.



**BEALS · ASSOCIATES** *INC.*

31 State Street  
10<sup>th</sup> Floor  
Boston, Massachusetts  
02109-2705  
617-742-3554  
Fax: 742-0310

**SITE DEVELOPMENT REPORT  
BOSTON EDISON PROPERTY**

**LAGRANGE AND VINE STREETS  
NEWTON, MASSACHUSETTS**

**NOVEMBER 7, 2002**

*Prepared for:*

**BOSTON EDISON COMPANY  
ONE NSTAR WAY  
WESTWOOD, MASSACHUSETTS 02090**

*Prepared by:*

**BEALS ASSOCIATES, INC.  
31 STATE STREET  
BOSTON, MASSACHUSETTS 02109**

Project Number:

C-229

Newton, Massachusetts

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**APPENDIX A – ZONING SUMMARY**

## **1.0 INTRODUCTION**

### **1.1 Site Location**

The subject site is located in the southeast corner of the City of Newton, Massachusetts, bounded by the Brookline/Newton boundary to the northeast and the Boston/Newton boundary to the southeast (see attached Locus Plan). The property is divided into two distinct pieces by Vine Street, which bisects the land in a north/south direction. In this report the two pieces will be referred to as the North Parcel (33.5± AC) and the South Parcel (8.9± AC).

LaGrange Street provides frontage for both parcels along their southeast boundaries. Vine Street also provides frontage to the northeast side of the South Parcel and the southwest side of the Northern Parcel. Additional frontage to the Northern Parcel is provided by Harwich Road (in two separate locations) and Brookline Street. The closest major route to the site is the VFW Parkway (Route 1), less than one mile to the south in Boston.

City-owned conservation land abuts the North Parcel to the west , along with single family house lots, which vary in size from 10,000 ± S.F. along Harwich Road at its northerly end to 70,000 ± S.F. along Hollywood Drive to the south. Conservation land also abuts the South Parcel along its entire westerly edge.

## **2.0 EXISTING CONDITIONS**

### **2.10 Landscape Features**

#### **2.1.1 North Parcel**

This portion of the site is divided into three distinct sections by existing drainage patterns (which include drainage and sanitary sewer easements to the City of Newton) and associated wetland areas. The most northerly section (Section A - see Exhibit 1) includes approximately 530' of frontage along Brookline Street at its northern edge and an additional access point from the northerly end of Harwich Road. The entire southerly edge of this section of the North Parcel is made up of a drainage channel and associated wetland areas that traverse the property. The upland portion of this section of the parcel has dramatic topography, including steep grade changes of up to 20 vertical feet. The existing vegetation includes mature hard and softwoods, with large white pines predominating.

The adjacent section of the North Parcel to the southeast (Section B) is also dominated by even greater variations in topography (60 vertical feet in some cases) and by large outcrops of Roxbury puddingstone, an indigenous New England rock type, typified by small rocks seemingly encased in what appears to be mortar, but is naturally occurring. These outcrops are apparent throughout this

section of the North Parcel. The existing vegetation is predominantly mature oaks with some red maples in the lower elevations and throughout the wetland area along the two drainage channels which divide the North Parcel. Access to this portion of the site is from LaGrange Street. There is a potential for dramatic views from the higher elevations of this section, once the leaves have fallen from the deciduous trees.

The third section of the North Parcel (Section C) has a large wetland area that parallels the drainage channel that runs from LaGrange Street westward towards the city-owned conservation area abutting the site to the west. The existing vegetation in this portion of the site is extremely dense in the understory, which includes wetland shrubs of many types as well as mature red maples. The southerly end of Section C is the northern side of the intersection of Vine Street and LaGrange Street. This portion of the site is relatively level and is covered by dense mature hardwoods.

### **2.1.2 South Parcel**

As mentioned earlier, the South Parcel is bounded to the west by city-owned conservation land and to the east by Vine and LaGrange Streets. The western portion of the site contains a significant wetland area associated with Sawmill Brook, but the easterly side of the site, adjacent to the existing road frontage is virtually all upland. The upland portion of the South Parcel has more gentle variations in topography than the North Parcel, with fewer and smaller rock outcrops. The existing vegetation is mature hardwood, with a fairly open understory. Several stone walls are visible crossing the site, which could be an attractive feature for future development.

### **2.1.3 Surrounding Land Uses**

The North Parcel, as mentioned earlier, is surrounded by residential land uses. The northern boundary (across the city line into Brookline) includes a recent small development of large single family homes. Harwich Road to the west is a development of smaller capes and raised ranch houses, most of which are well kept. The homes which front on Hollywood Drive are very large and quite new, while the development along the southeasterly side of LaGrange Street (opposite the frontage of the subject parcel) are multi-family.

The South Parcel is not as affected by the surrounding residential development. This parcel is buffered from the development along Wayne Road by city-owned conservation land. The homes fronting on Vine Street are small but reasonably well-maintained. Several of the multi-family houses along LaGrange Street are visible, but have less of a visual impact on the South Parcel.

## **2.2 Property Line and Topographic Information**

Boston Edison has compiled a property line plan, which illustrates the boundaries of the North and South Parcels. Topographic information is available from the City of Newton Engineering Department and was used to prepare the Conceptual Development Plans at the end of the report.

## **3.0 SUBSURFACE CONDITIONS**

The majority of the upland soils throughout the site appear to belong to the Charlton-Hollis Complex. These soils are underlain by a Roxbury Conglomerate with outcroppings visible on the property.

The Charlton-Hollis Complex is typically comprised of glacial till soils overlying bedrock.

The Soil Conservation Service ( U.S. Department of Agriculture) describes these soils as being well-drained and well suited for building site development.

Although bedrock is shallow on portions of the site it appears to be a Roxbury Conglomerate commonly known as puddingstone. Conglomerate bedrock is not firmly cemented and, along with weathering, results in a condition in which the rock can actually be excavated by mechanical means, such as backhoes and excavators, without blasting.

## **4.0 LAND USABILITY ANALYSIS**

### **4.10 Zoning and Land Use Controls**

#### **4.1.1 Zoning Ordinance**

The North Parcel is zoned Single Residence 3, with the exception of 170' parallel to the northerly side of Vine Street, which is zoned Single Residence 2. All of the South Parcel is zoned Single Residence 2. The minimum lot size in the Single Residence 3 District is 10,000 S.F. and in the Single Residence 2 District is 15,000 S.F. See Exhibit 4 for additional dimensional regulations.

**By-right uses in Single Residence Districts include:**

1. A dwelling for one family.
2. Non-conforming uses permitted under Section 30-21 of the City of Newton Zoning By-Law.

3. Accessory uses to single family dwellings.
4. Family day care for not more than six (6) children at a time.
5. Home businesses subject to Section 30-8(c).
6. Accessory apartments subject to the provisions of Section 30-8(d)(1).

**Required Build Factor (irregular lot formula)**

In addition to the above requirements, a recent amendment to the City of Newton Zoning Ordinance adds the following:

"In order to limit the degree to which a lot may have an irregular shape, the following build factor formula shall be used:

$$\frac{\text{Lot perimeter squared}}{\text{Actual lot area}} \div \frac{\text{Actual lot area}}{\text{Minimum required lot area}} = \text{Build Factor}$$

**Maximum Build Factor  
Lots created after 9/16/96**

Single Residence 3 and all Multi-Family Districts	20
Single Residence 2	25

**Parking Requirements**

Two parking stalls for each dwelling unit in a one or two-family dwelling. Such parking stalls may be stacked one behind the other and may be located within the side yard setback.

**4.1.2 Subdivision Regulations - Design Standards**

Not more than one building designed to be used as a dwelling is to be placed on any lot in a subdivision without prior approval by the Planning Board.

Street jogs with centerline offsets of less than 125' should be avoided.

Streets shall be laid out so as to intersect as nearly as possible at right angles. No street shall intersect any other street at less than 60°.

Minimum centerline radius	100'
Minimum radius at intersection roundings	33'
Minimum Right-of-Way width	45'
Minimum road grade	0.6%
Maximum road grade	12%
Maximum dead end length	500'
Cul-de-sac turn around diameter	95'
Minimum utility easement width	
municipal	20'
private	15'

#### **4.1.3 Permits**

We anticipate that the development of the subject property as allowed by-right by the applicable land use controls would require the following approvals:

##### **Planning Board**

###### **Conceptual Development Plan A**

Approval Not Required Plan (proposed lots which utilize the existing roadway frontage)

and

Definitive Subdivision Plan (conventional subdivision creating new roadways for frontage)

###### **Conceptual Development Plan B**

Approval Not Required Plan (proposed lots which utilize the existing roadway frontage)

##### **Conservation Commission**

Order of Conditions (for work proposed within 100' of the wetland boundaries and 200' of the bank of an existing river)

## **5.0 TRAFFIC AND ACCESS**

### **5.10 Primary Access and Major Roadways**

We anticipate that primary access to the North Parcel would be from LaGrange Street, since that street provides the majority of the frontage for the parcel. Primary access to the South Parcel would most likely be from Vine Street, as that portion of the parcel's frontage on LaGrange Street is in the middle of an existing intersection. As mentioned earlier, the closest major roadway is the VFW Parkway (Route 1), to the south, although Route 9 is less than two miles to the north on LaGrange Street.

## **6.0 UTILITIES**

### **6.1 Sanitary Sewer**

Sanitary sewer service is available, through various means, to the entire site. As mentioned earlier, the North Parcel contains two City of Newton sanitary sewer easements. There is an 18" line within the easement separating Section A and Section B and a 12" line within the easement that separates Section B from Section C. There is also a 10" line in the northerly portion of Harwich Road and a 12" in the southerly portion. Brookline Street has sewer service as well. Wayne Road contains a 15" line operated by the Neponset Valley Sewer System. Vine Street has sewer service for a short distance on either side of the intersection with Wayne Road. Servicing the entire parcel should not be problematic. The sanitary sewer is owned and operated by the Massachusetts Water Resources Authority.

### **6.2 Water Supply**

Vine Street, Harwich Road and Brookline Street all contain 8" water mains. A portion of LaGrange Street has an 8" main that connects to two different 12" mains that cross into the City of Boston. The public water supply is owned and operated by the Massachusetts Water Resource Authority (MWRA).

### **6.3 Gas**

Natural gas service is provided by the Boston Gas Company.

### **6.4 Electricity, Telephone, Cable**



This group of utilities is provided by above-ground utility poles by NStar, NYNEX and Media One respectively.

## **7.0 DRAINAGE**

Given the existing topography and wetland areas on the two parcels, managing the increased run-off from development of the property should not present any major problems. Pre-and post-development would have to be equal, which could be accomplished using standard Best Management Practices, subject to the review of the Newton Conservation Commission and the Newton Planning Board. We would anticipate, under a Definitive Subdivision scenario, that a series of detention/retention basins would be needed to accommodate the increase in run-off from new roadways. Several outlet locations are present on both the North and South parcels which could be used to carry stormwater off the site without the need for additional easements.

## **8.0 CONCEPTUAL DEVELOPMENT PLANS**

### **8.10 Conceptual Development Plan A - Definitive Subdivision**

This plan (See Exhibit 2) illustrates single family residential development throughout the site, utilizing a combination of Form A (ANR) lots on existing frontage, two cul-de-sacs and a "P" shaped roadway to provide additional frontage and access to the interior of the North Parcel. As mentioned earlier, there is a 500' regulatory limitation on the overall length of cul-de-sacs, which makes access to the some portions of the property difficult. The wetland areas associated with the City of Newton drainage easements (actually channelized streams) in the North Parcel prevent the use of a through roadway connecting the stub of Harwich Road to LaGrange Street without a significant wetland crossing.

This plan shows the North Parcel as being developed by means of a cul-de-sac, with access from Brookline Street, and a "P" shaped roadway with an access point on LaGrange Street. The proposed roadways create sufficient frontage to allow development of the interior of Sections A & B. The existing frontage on Brookline, Vine and LaGrange Streets is also utilized to create Form A (or Approval Not Required) lots all three sections of the North Parcel. A portion of Section C (170' from the edge of the Vine Street right-of-way) is zoned Single Residence 2, which requires a minimum of 15,000 S.F. per lot, hence the larger lots in that area. The total number of lots proposed for the North Parcel is 53.

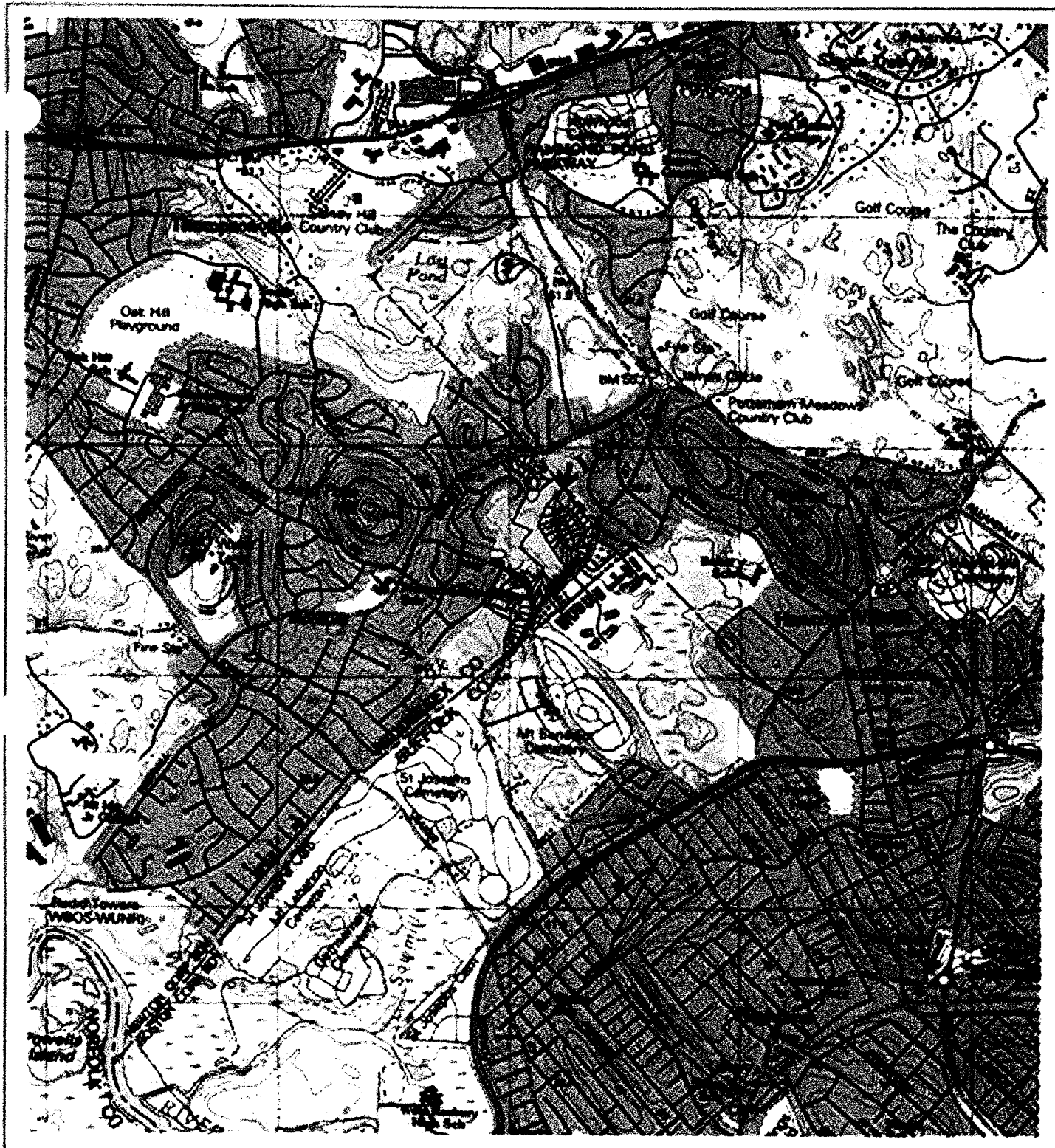
In this scenario, the South Parcel is developed with a 500' cul-de-sac and Form A lots created using the existing frontage on LaGrange and Vine Streets. This scheme illustrates 15 lots, all of which are equal to or greater than 15,000 S.F. in area, bringing the total number of lots to 68.

Conceptual Development Plan A would require an initial filing with the City of Newton Planning Board to create the Form A lots and a subsequent Definitive Subdivision Plan submission to obtain approval for the proposed roadways and additional new lots from the Newton Planning Board. Approval Not Required Plans (which create lots on existing frontage) do not require a public hearing or abutter notification. The Definitive Subdivision approval process requires a minimum of one public hearing as well as abutter notification. In this conceptual plan, the road system has been established to comply with the Subdivision Rules and Regulations and the lot layouts have been developed to comply with the required build factor.

## **8.2 Conceptual Development Plan B - Approval Not Required**

This scenario (See Exhibit 3), develops the entire site by means of Form A lots using existing frontage on Vine Street, LaGrange Street and Brookline Street to create lots which meet the required frontage and lot area minimums in each zoning district. The majority of the lots in this scenario are oversized and somewhat irregular, in an effort to maximize the total number of proposed lots. Utilizing existing frontage along public ways, 19 ANR lots could be developed in the North parcel with an additional 10 lots in the South Parcel, for a total of 29 lots.

Conceptual Development Plan B would require the filing of an Approval Not Required plan with the Newton Planning Board, which (despite the name) is signed by the Board at a regularly scheduled meeting. No public hearing or abutter notification is required for this process.



## LOCUS PLAN

Source: USGS Topographic Quadrangles  
for Boston North  
7.5 x 15 Minute Series (Metric)

Scale: 1:25,000 or 1" = 2083.33'

**Boston Edison Property**  
LaGrange and Vine Streets  
Newton, Massachusetts

*Prepared by Beals Associates, Inc. - Boston, Massachusetts*

**1. Introduction**

**[REDACTED]**

### SECTION THREE: PROPERTY

## RESEARCH IN BRIEF

**SECRET**

## **NOTES :**

# Boston Edison Company

Prepared by  
ZIMMER & ASSOCIATES, INC.

DATE	10/1/88
BY	J. J. ZIMMER
CHECKED BY	J. J. ZIMMER
APPROVED BY	J. J. ZIMMER

PROJECT NO.	100-100-100
DATE	10/1/88
BY	J. J. ZIMMER
CHECKED BY	J. J. ZIMMER
APPROVED BY	J. J. ZIMMER

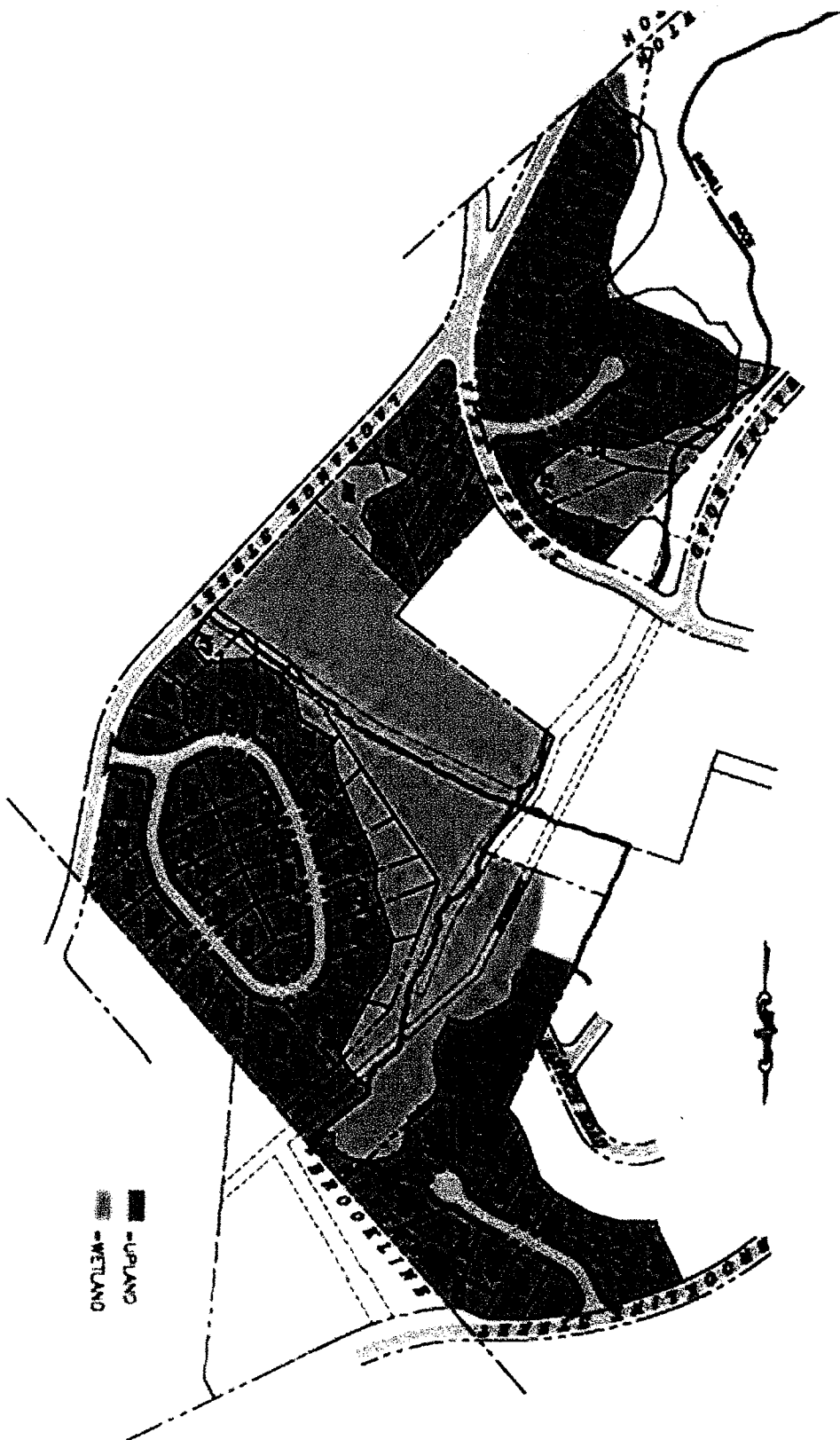
## CONCEPTUAL DEVELOPMENT PLAN A

BOSTON Edison PRESENT  
LANDING ON THE BOSTON  
EDISON COMPANY

DATE	10/1/88
BY	J. J. ZIMMER
CHECKED BY	J. J. ZIMMER
APPROVED BY	J. J. ZIMMER

DATE	10/1/88
BY	J. J. ZIMMER
CHECKED BY	J. J. ZIMMER
APPROVED BY	J. J. ZIMMER

EXHIBIT 2



**Boston Edison  
Company**

MASS - ASSOCIATES INC.

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17	18	19	20	21	22	23	24	25	26	27	28	29	30	31	32	33	34	35	36	37	38	39	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	76	77	78	79	80	81	82	83	84	85	86	87	88	89	90	91	92	93	94	95	96	97	98	99	100
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**CONCEPTUAL  
DEVELOPMENT PLAN B**

SCOTT'S BROWN PROPERTY

LANDING AND TIE-UP

WETLANDS

DATE: 10/1/88

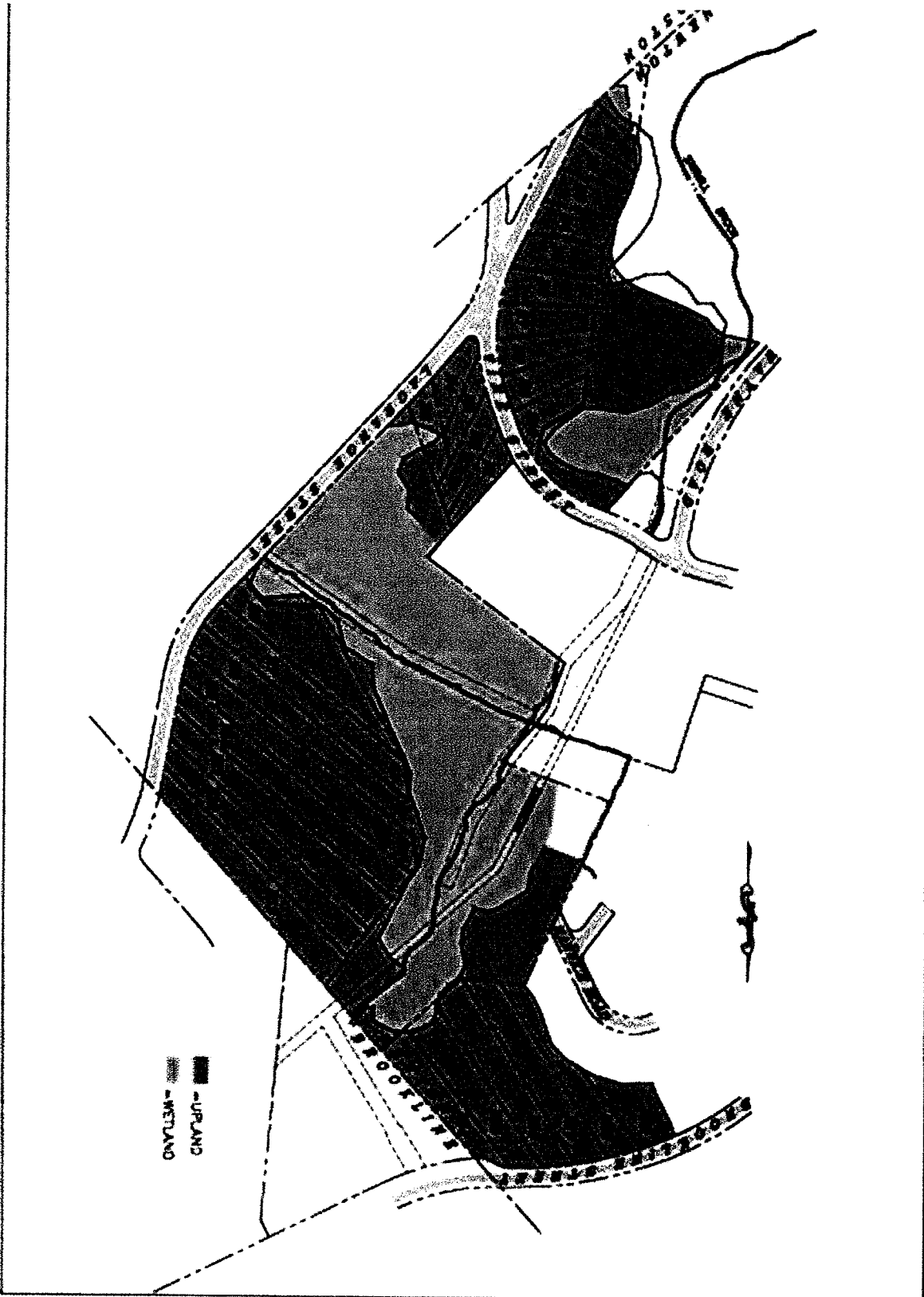
PROJECT NO. 1000

SCALE: 1" = 100'

PROJECT NO. 1000

PROJECT NO. 1000

EXHIBIT 3



31 State Street  
10<sup>th</sup> Floor  
Boston, Massachusetts  
02109-2705  
617-742-3554  
Fax: 742-0310

## **ZONING SUMMARY**

### **BOSTON EDISON PROPERTY LAGRANGE AND VINE STREETS NEWTON, MASSACHUSETTS**

**JULY 29, 1997**

**REVISED NOVEMBER 5, 2002**

The subject property falls within both the SR2 and SR3 zoning districts, as shown on the most current Zoning Map (dated August 12, 1997) and which correspond to the Single Residence 2 and Single Residence 3 Zoning Districts as described in the City of Newton Zoning By-Law.

#### **ARTICLE I IN GENERAL**

##### **Section 30-1**

##### **Definitions:**

**Affordable rental housing unit:** A dwelling unit whose monthly rent is not greater than 30% of 80% of the median family income for Metropolitan Boston divided by 12, or as otherwise defined by the Newton Housing Authority.

**Build Factor:** A mathematical formula which limits the irregularity of the lot shape.

**Dwelling, attached:** Single family dwelling units attached to one another at the ground level and each having a separate primary and secondary access at ground level.

**Dwelling, multi-family:** A building or structure containing three or more dwelling units.

**Dwelling, two-family:** a building or structure containing two dwelling units.

##### **Floor area ratio:**

(a) For residential structures in residential districts, gross floor area of a building on the lot divided by total lot area.

(b) For all others: gross floor area of all buildings on the lot divided by total lot area. Any portion of a basement not used for storage, parking or building mechanicals shall be included in determining the floor area ratio.

##### **Floor area, gross:**

(a) For residential structures in residential districts, the sum of the floor area within the perimeter of the outside walls of the building without deduction for garage space, attics, hallways, stairs, closets, thickness of walls, columns, atria, open wells and other vertical open spaces, or other features exclusive of any portion of a basement as defined in this section. For atria, open wells and other vertical open spaces, floor area shall be calculated by multiplying the floor level area of such space by a factor equal to the average height in feet divided by ten. Excluded from the calculation are bays or bay windows which are cantilevered and do not have foundations and which occupy not more than 10% of the wall area on which they are mounted.

(b) For all others: the floor area within the perimeter of the outside wall of the building without deduction for hallways, stairs, closets, thickness of walls, columns or other features.

**Floor area ground:** the gross floor area enclosed by the perimeter of the lower-most story of a building above the grade plane

**Grade:** In cases where the walls of the building are more than 5 feet from the nearest street line, the mean elevation of the ground adjoining said wall; and in all other cases the mean elevation of the nearest sidewalk.

**Grade Plane:** A reference plane representing the average of finished ground level adjoining the building at all exterior walls.

**Half story:** A story directly under a sloping roof where the area with a ceiling height of 7'3" or greater is less than 2/3 the area of the story next below.

**Height:** The vertical distance from grade plane to the average height of the highest roof surface. Not included in such measurements are 1) cornices which do not extend more than 5' above the roof line; 2) chimneys, vents, ventilators and enclosures for machinery of elevators which do not exceed 20' in height above the roof line; 3) enclosures for tanks which do not exceed 20' in height above the roof line and do not exceed in aggregate area 10% of the area of the roof and 4) towers, spires, domes and ornamental features. Further, no space above the maximum height established in Section 30-15, Table 1 shall be habitable.

**Lot, corner:** A lot fronting on two (2) intersecting streets which form an interior angle of one hundred and twenty (120) degrees or less; or a lot located on a bend in a street where the street bends so as to form an interior angle of one hundred and twenty (120) degrees or less; or a lot on a curve at the intersection of two (2) streets where two (2) lines tangent to the street line at the intersection of each side of the lot with the street line form, if prolonged towards the curve, an interior angle of one hundred and twenty (120) degrees or less. Only that part of a lot contiguous to a corner, bend or curve, and having an area not in excess of ten thousand (10,000) square feet, and a maximum length on either street, except in case of a bend or curve, of not more than one hundred and fifty (150) feet, shall be deemed a corner lot. The provisions of this paragraph shall apply to a lot fronting on an open space dedicated to the public use in the same manner as to a lot fronting on a street.

**Lot coverage:** The percentage of the lot area which is covered by building, including accessory buildings. The area covered by roof overhangs of up to two feet shall not be included in the calculation of lot coverage."

**Lot, interior:** Any lot or part of a lot other than a corner lot.

**Residential care facility:** A residential care facility shall consist in part of independent dwelling units and shall contain a combination of central cooking and dining facilities, recreation facilities and shall provide to all its residents, specified medical services, which medical services shall include, but are not limited to, nursing and dietary assistance, together with the availability on the premises of full-time nursing care in a licensed care facility, provided that at least one (1) occupant of each dwelling unit shall be at least sixty-five (65) years of age or older.



**Space, habitable:** Gross floor area in a building structure used for living, sleeping, eating, or cooking purposes, including closets and hallways.

**Space, useable open:** all the lot area not covered by buildings and/or structures roadways, drives, surface parking area or paved surfaces other than walks. The area devoted to lawns, landscaping, exterior tennis courts, patios, in-ground swimming pools and non-structural recreational amenities shall be included as useable open space. The area covered by roof overhangs of up to two feet shall be included in the calculation of open space.

**Structure:** Any construction, erection, assemblage or other combination of materials at a fixed location upon the land, such as, but not limited to, a building, bridge, trestle, tower, framework, tank, tunnel, tent stadium, platform or swimming pool.

## ARTICLE II USE REGULATIONS

### Section 30-5 Allowed Uses in all districts; special permits in all districts; prohibitions in all districts:

(a) In all districts, land, buildings and structures may be used for one (1) or more of the following purposes:

(1) Agriculture, horticulture, floriculture or viticulture on a parcel of five (5) acres or more.

(2) Construction, alteration, enlargement, reconstruction, use or change of use of a building or land for a church, synagogue, house of worship, or other uses of religious purposes or a school or any other use of educational purposes and such accessory uses as are proper and usual therewith on land owned or leased by the Commonwealth or any of its agencies, subdivision or bodies politic or by a religious sect or denomination, or by a nonprofit education corporation, provided that a school or other use or education purpose shall not include a correctional facility. For purposes of section 30-5(a)(2), "alteration" shall mean those modifications which produce an increased parking demand pursuant to the requirements in sec 30-19. Such uses shall be permitted, subject to the dimensional regulations of section 30-15, the parking regulation of section 30-19 and the following procedure:

(b) In all districts, unless the use is otherwise permitted as of right, the board of aldermen may grant a special permit in accordance with the procedures in section 30-24, the density and dimensional controls set forth in section 30-15 and the parking requirements set forth in section 30-19 to use land, building and structures for one or more of the following purposes:

(1) Agriculture, horticulture, floriculture or viticulture on a parcel of less than five (5) acres

(2) For-profit educational purposes and such accessory uses as are not permitted

(3) The removal of sod, loam, subsoil, sand and/or gravel from the premises for the purpose of sale

(4) The placement or removal of sod, loam, clay, gravel or stone, or other solid material, where the existing contours of the land are to be altered by more than three (3) feet, except when a special permit has been issued for construction under the terms of this ordinance

(5) Activities which are necessary in connection with scientific research or scientific development or related production, accessory to activities permitted as a matter of right, so long as it is found that the proposed accessory use does not substantially derogate from the public good. Notwithstanding anything in this subsection, no recombinant DNA research shall be permitted as an accessory use

(6) Cemeteries

(7) Chapel or crematorium situated on the ground of and operate in connection with a cemetery

(8) Service building and greenhouses in cemeteries, provided these area used entirely for the private purpose of the cemetery and not for business purposes

(c) In all districts, no land, buildings or structures shall be used except in conformance with the following:

(1) Whenever the existing contours of the land are altered, the land shall be left in a usable condition, graded in a manner to prevent the erosion of soil and the alteration of the run-off or surface water to or from abutting properties, and shall be substantially landscaped;

(2) There shall be no self-service gasoline service stations or gasoline service stations with self-service pumping facilities except where such self-service station or pumping facility has been authorized pursuant to the procedures of section 30-24

#### **Section 30-8 Use Regulations for Single Residence Districts**

##### **(a) *Allowed Uses***

In all single residence districts subject to the density and dimensional controls set forth in section 30-15 and the parking requirements set forth in section 30-19, land, buildings, and structures may be used, or may be designed, arranged or constructed for one or more of the following purposes:

(1) A dwelling for one (1) family

(2) Nonconforming uses permitted under section 30-21

(3) Such accessory purposes as are proper and usual with dwellings for single families, included but not limited to:

a) housing of resident domestic employees

b) renting of rooms for not more than three (3) lodgers

c) parking or storage of recreational trailers or vehicles, provided that if not parked or stored within a garage or other enclosed structure, such trailer or vehicle shall not be parked or stored within the area between any front line of the principal building and the street line or stored within the side or rear setback, and further provided that such trailer or vehicle may be parked in he side or rear setback for a period not to exceed seven (7) days.

(4) Family day care for not more than six (6) children at a time, as defined and licensed under MGL Chapter 28A

(5) Home businesses subject to section 30-8(c)

(6) Accessory apartments subject to provisions of section 30-8 (d) (1).

##### **(b) *Special Permits in Single Residence Districts***

In all single residence districts, the board of aldermen may grant a special permit, in accordance with he procedures in section 30-24, the density and dimensional controls set forth in section 30-15 and the parking requirements set forth in section 30-19, to use land, buildings and structures for one or more of the following purposes:

(1) An association of persons living together in a common dwelling

- (2) A congregate living facility
- (3) Hospital, sanitarium, convalescent or rest home or other like institution
- (4) Library, museum or other cultural institution
- (5) Club or clubhouse, provided that a chief activity is not a service customarily carried on as a business
- (6) Riding school or stock farm
- (7) A private garage with provision for more than three (3) automobiles, or a private garage of more than 700 square feet in area or for more than one such private garage per single family dwelling
- (8) Radio or television transmission station structures supporting radio, television or telephone transmission or receiving stations including dish antennas
- (9) Structures supporting radio, televisions or telephone transmission or receiving stations, including dish antennas
- (10) The conversion of a structure in existence on December 2, 1974 to occupancy by more than one family, provided that there shall be no exterior alterations of the structure, other than those necessary to comply with applicable health, building and fire codes, subject to the following conditions:

a) There shall be provided for each family the minimum lot area required for a single dwelling unit as follows:

Lot Area (SF)	Lot Width (feet)	
Single Residence 1	25,000	140
Single Residence 2	15,000	100
Single Residence 3	10,000	80

b) There shall be provided for each family two (2) off-street parking spaces

- (11) Accessory apartments subject to provisions of section 30-8 (d)(2)
  - (12) Home businesses subject to the provisions of section 30-8(c)(11)
  - (13) Single family attached dwellings in one or more groups and further provided that no building is located within twenty-five (25) feet of any property boundary line
  - (14) Clustered single family dwellings subject to the provisions of section 30-15(k)
  - (15) Such accessory purposes as are proper and usual with the preceding uses and are not injurious to a neighborhood as a place for single-family residences; further provided that in all of the preceding uses, such off-street parking facilities shall be provided as the board of aldermen may require.
- (c) Home Businesses (see pages 436 - 438 of the City of Newton Zoning By-Law))
- (d) In single residence districts, an accessory apartment shall be a permitted use, according to Table 30-8 and the following provisions: (see pages 438 -441 of the City of Newton Zoning By-Law)

#### **Division 4. Density and Dimensional Controls**

##### **Section 30-15. Density/dimensional requirements**

Except as provided in section 30-21 (non-conforming uses) the density and dimensional controls set forth in the Tables below shall apply to all buildings, structures and uses in each of the said districts

- (a) In any instance where a density of dimensional control(s) is not set forth in the Tables below for a use which may be granted by special permits, the most restrictive density or dimensional control applicable to such use in any district where such use is allowed as of right shall be applicable to such use when granted by special permits unless otherwise required in the special permit by the board of aldermen

(b) Lot frontage

(1) In the case of a lot on a street, the line of which has a curve with a radius of less than 200' the required lot frontage shall be measured along the setback line.

(2) In the case of a lot on a street and a public footway, the required lot frontage may be measured along the public footway with the permission of the board of aldermen in accordance with the procedure provided in section 30-24

(3) In the case of corner lots, the frontage when measured on the street line shall run to the point of intersection of the two street lines.

(4) In the case of a rear lot not having the required frontage on a street, the required lot frontage may be measured along the rear line of the lot or lots in front of it with the permission of the board of aldermen in accordance with the procedure provided in section 30-24.

(5) In all other cases the required lot frontage shall be measured on the street line.

(c) The minimum lot area, lot frontage, maximum building lot coverage and minimum open space requirements set forth in Table 1 below which are applicable to as-of-right uses in all Single Residence districts and in Multi-Residence Districts 1, 2 and 3 (hereinafter referred to in this subsection as the "dimensional and density controls") shall not apply to lots not in compliance therewith which prior to October 11, 1940, were shown as separate parcels on the assessing plans filed in the assessing office and were assessed as such, or were to shown on subdivision plans approved by the planning board acting as a board of survey or were so shown or described in plans of deeds duly recorded with the Middlesex South District Registry of Deeds; provided that such dimensional and density controls shall apply to any such lot the lot lines of which shall have been changed since October 11, 1940, provided further, that if at any time subsequent to 1950 two (2) or more contiguous lots with frontage upon a common street shall be in common ownership the dimensional and density controls shall apply to the extent that it is possible by combining such lots. Or by resubdivision thereof by straight line boundaries and without bringing the location of any buildings thereon into violation of the provisions of the setbacks required in Table 1 below to provide at least one or more lots, each of which complies or more nearly complies, than therefore with such dimensional and density controls, such combination to be made to provide as many fully complying lots as possible. In the event that the dimensional and density controls are made applicable, by operation of either of the foregoing provisions of this subsection to any lot or lots to which, as originally constituted the provisions of Table 1 applicable to lots created prior to December 7, 1953 would have been applicable, the minimum lot areas, lot frontage, maximum building lot coverage and minimum open space requirements applicable to the changed, combined or resubdivided lot or lots shall be those set forth in Table 1 for lots created prior to December 7, 1953.

(d) Front Setback

No building need be set back more than the average of the setbacks of the buildings on the lots nearest thereto on either site, a vacant lot or a lot occupied by a building set back more than the required distance for its district to be counted as though occupied by a building set back such required distance. In no case shall any part of a building in a residence district extend nearer the street line than 10 feet.

(e) Setback Line

Distance shall be measured from the lot line to the nearest portion of the structure, including outside vestibule or porch. Steps and bulkheads may project into the setback. Gutters, cornices, projecting eaves and ornamental features may project up to two feet into the setback. In the case of rear lots the setback requirements shall be measured from the rear line of the lot in front; provided however, that on a rear lot, no building shall be erected nearer than 25 feet from the rear line of the lot in front.

(f) Rear Lot Set Back

In the case of a corner lot, the rear lot line shall be the lot line opposite the street on which the main entrance is located.

(g) In no district shall any obstruction to the view which constitutes a traffic hazard be allowed within the required setback lines. Upon complaint by the chief of police the board of aldermen, after public hearing may order the removal at the owner's ex of any such obstruction.

(h) *Refers to Multi-Residence 3 and 4 Districts*

(i) the lot coverage requirements contained in Table 1 of section 30-15 shall not apply to the erection of construction of a private garage in connection with or accessory to a building which was in existence on December 27, 1922, and designed or used as a residence for one or two families.

(j) Whenever the operation of this section would reduce the area available for building a dwelling house upon any lot in a residence district to less than 20 feet in its shortest dimension or less than 800 square feet in total area, the requirements of this section shall be modified so far as necessary to provide such minimum dimension and total area by reducing the minimum distance of such dwelling house from rear lot and street lines, first from rear lot lines, by to no less than 7 ½ feet and second, of necessary from street lines but to not less than 15 feet.

(k) Open Space Preservation Development

In all residence districts, the board of aldermen may give site plan approval in accordance with the procedures provided in section 30-23 and grant a special permit in accordance with the procedures provided in section 30-24 for the reduction of the minimum lot area, the minimum lot frontage, minimum setback lines, the minimum side lot line and/or the minimum rear lot line required for each single or two-family dwelling erected below that required by, or subject to the following:

(1) The area being developed contains a minimum of five (5) acres and a maximum of 35 acres provided, however, that not more than 35 acres in any one lot or in contiguous lots in common ownership as of April 19, 1977 shall be developed under the provisions of this subsection (k)

(2)

a) The minimum lot area per dwelling unit may not be reduced below the following:

Single Residence 1                      15,000 Square Feet

Single Residence 2                      10,000 Square Feet

Single Residence 3                      7,000 Square Feet

Multi-Residence 1                      7,000 Square Feet

Multi-Residence 2 and 3              7,000 Square Feet

- b) The minimum lot frontage for each lot may not be reduced below 50 feet
  - c) The minimum side yard line for each lot may not be reduced below 7½ feet.
  - d) The minimum rear yard line for each lot may not be reduced below 15 feet.
- (3) For each dwelling unit, an area equal to the differential between the minimum lot area requirement established by Table 1 Density and Dimensional controls. In Residential Districts and the reduced minimum lot area permitted in accordance with subsection (2)(a) of this section shall be set aside within the development as permanent open space, provided however, that not more than 25% of the area set aside in fulfillment of this requirement shall be within an area delineated by section 22-22 of the Revised Ordinances, as amended. The board of aldermen, in designating such open space, shall exercise special concern with regard to the preservation of natural features, including, but not limited to, hills, ponds, watercourses, wetlands, trees, tree groves, wooded areas, rock outcrops, native plant and wildlife habitats and areas of aesthetic or ecological interest. Such land shall be of such size, shape, dimension, character and location as to assure its utility for park, conservation or recreation purposes.
- (4) The use of the land set aside as permanent open space shall be limited to recreation and open space uses and not building, structures, driveways or parking area other than building or structures shall have an aggregate floor area of less than 0.5% of the area of such designated open space.
- (5) The land set aside as permanent open space shall be held and maintained by the developer until it is conveyed to, accepted by and owned by one or more of the following:
- a) The City of Newton
  - b) The Newton Conservation Commission
  - c) An association, trust or corporation of all owners of lots within the development or
  - d) A non-profit trust or corporation having as its primary purpose the maintenance of open space.
- No building permit shall be issued in accordance with this subsection (k) until said designated open space shall have been conveyed to and accepted by one or more of the above and in the event that said open space shall not have been conveyed to the city and/or the Newton Conservation Commission, a restriction enforceable by the city, ensuring the permanent maintenance of said land as open space shall have been recorded.
- (6) In granting a special permit in accordance with this subsection (k), the board of aldermen may designate one of the options specified in subparagraph (5) above, which shall be utilized and may designate that the public shall have a right of access to the land so set aside or any part thereof.
- (7) Notwithstanding the above, the board of aldermen may give permission for further reduction in or the waiver of minimum lot frontage, setbacks and side and rear yards if it finds that such reduction are consistent with the purpose of this ordinance and will enable the preservation of certain natural

features, including topography, trees, wooded areas, rock outcrops. Native plants, wall, fencing and areas of aesthetic or ecological interest; provided, however, that such further reduction shall not be exercised so as to permit the construction of attached dwellings within single residence dwellings.

(l) *Refers to Multi-Residence districts*

(m) In no residence district shall an accessory building be nearer to any lot line than 5'. Such distances shall be measured to that portion of the principal or accessory building nearest the lines including outside vestibule or porch, and in the case of side lot lines, but not rear lot lines, steps and bulkheads.

(n) Underground structures, including, but not limited to basements of parking facilities, may be located within the applicable setback distance, provided that any portion of the underground structure which is visible above ground must conform to the applicable setback distance.

(o) For lots which on August 3, 1987 were undeveloped and which prior to said date were in single and separate ownership and were not available for use in common or in connection with a contiguous or adjacent lot and which have a lot area less than 10,000 square feet, the as-of-right building height shall be one story or 12'. By special permit the building height may be two stories or 24'. As of right floor area shall be .50 and by special permit the maximum floor area ratio may be .85. Allowed uses shall be restricted to those not limited by the provisions of sections 30-11(b), 30-11(f), 30-12(b) and 30-13(d). For the purpose of this provision, lots must have been shown as separate parcels on plans filed in the assessor's office and assessed as such prior to August 3, 1987 or they must have been shown or described in the most recent plans of deeds duly recorded with the Middlesex South District Registry of Deeds prior to August 3, 1987.

(p) In order to limit the degree to which a lot may have an irregular shape, the following build factor formula shall be used:

$$\frac{\text{Lot perimeter squared}}{\text{Actual lot area}} \div \frac{\text{Actual lot area}}{\text{Minimum required lot area}} = \text{Build Factor}$$

Lots on plans recorded in the Middlesex (South) Registry of Deeds or endorsed by the planning board acting as a board of survey after September 16, 1996 shall be subject to a maximum build factor of 20 in Single Residence 3 and all Multi Residence Zoning Districts, a maximum build factor of 25 in Single Residence 2 and 30 in Single Residence 1 Zoning Districts. **This formula shall apply whether lots are created as a subdivision or as an Approval Not Required (ANR) plan under M.G.L. c. 41, §81P.** The Board of Aldermen may grant a special permit for the creation of a lot with a build factor in excess of the maximum set out herein.

(q) Any residential structure that is replacing a previously existing three-story residential structure shall be allowed three stories, but only insofar as the absolute height does not exceed that of the previously existing structure.

### ARTICLE III. PARKING AND LOADING FACILITIES

#### Sec. 30-19 Parking and loading facility requirements

##### (a) Intent and Purpose

It is the intent of these provisions that any use of land involving the storage or entry upon the land of vehicle be so designed and operated as to reduce hazards to pedestrians upon the public sidewalks, to protect the use of adjacent property from nuisance caused by noise, fumes and glare of headlights which may result from the operation of cars parking off the streets, to enhance and protect the visual quality of the city, to reduce congestion in the streets and contribute to traffic safety by assuring adequate and well designed areas for the off-street parking, loading, unloading and maneuvering of vehicles associated with any use of land.

**(b) Applicability**

No land shall be used and no building shall be erected, enlarged or used in any district in the city, except as provided hereinafter, unless off-street parking and loading facilities are provided in accordance with the requirements of this section.

The regulations of this section shall not apply to parking or loading facilities in existence of for which building permits have been issued prior to the date of adoption of this section, which conformed to all applicable regulations in effect when established, except that where parking or loading facilities are increased in capacity after the adoption of this section, the expanded portion thereof shall be constructed in accordance with the regulations of this section.

**(c) General Regulations**

(1) No reduction in the number of off-street parking stalls which are required by this section shall be allowed and no existing off-street parking stalls shall be eliminated unless replaced by an equal number of off-street parking stalls designed in accordance with the requirements of this section; provided that this subparagraph shall not operate to prevent the elimination of existing parking stalls which are in excess of the number required by this section excluding the provision of subparagraphs (c)(2) and (c)(3) of this section.

(2) *refers to enlargement or change in existing use*

(3) The board of aldermen may grant a special permit in accordance with the procedure provided in section 30-24 to reduce or waive the requirement that parking be provided as would be required by subparagraph (c)(2) above in conjunction with the enlargement, extension or change in use of a building or structure, provided that this reduction or waiver shall not be applicable to any increase in gross floor area.

(4) All required parking facilities shall be provided and maintained to land as the use exists which the facilities were required to serve. Reasonable precautions shall be taken by the owner or operator of particular facilities to assure the availability of required facilities for the employees or other persons whom the facilities are designed to serve. Required parking stalls shall not be assigned to specific persons or tenants nor rented or leased so as to render them in effect unavailable to the persons whom the facilities are designed to serve.

(5) Municipal parking lots shall not be used to meet the parking requirements of this section.

**(d) Number of Parking Stalls**

The minimum number of parking stalls to be supplied for each type of building or land use shall be in accordance with the following requirements. Where the computation results in a fractional number, the fraction shall be counted as one stall.

(1) Two parking stalls for each dwelling unit in a one or two-family dwelling. Such parking stall may be stacked one behind the other and may be located within the side yard setback.

(2) Two parking stalls shall be provided for each dwelling unit in an apartment house, garden apartment, or attached dwellings, provided that the board of aldermen may grant a special permit in accordance with the procedure provided in section 30-24 for the construction of an apartment house, garden apartments, attached dwellings with a lesser parking stall requirement for each dwelling unit if circumstances warrant such modification, but in no case less than 1 1/4 parking stalls per dwelling unit, except multi-



family housing for low-income or elderly persons built under state or federal housing programs. For such public housing projects, one parking stall for each two (2) low income dwelling units not reserved for the elderly and one parking stall for each four (4) dwelling units reserved for the elderly shall be provided.

- (3) One stall for each room or suite designed or intended to be occupied independently by a person or a group or persons in a hotel or motor hotel and one stall for each three (3) employees of the largest shift.
- (4) One stall for each sleeping room in a boarding house, rooming house, lodging house, tourist house, congregate living facility and one stall for each three (3) employees on the largest shift.
- (5) One stall for each five (5) occupants in a dormitory.
- (6) One stall for each forty (40) square feet of floor space within a funeral home open to the public use, or a minimum of thirty (30) spaces, whichever is larger.
- (7) Parking stalls shall be provided on the premises of an elderly housing with services facility, including residential care facilities an elderly congregate living facilities on the basis of the following:
  - a) .5 parking stall per dwelling unit, except when the board of aldermen determined that adequate transportation services are available, it may grant a special permit to reduce the requirement to a minimum of .25 parking stall per dwelling unit.
  - b) .25 parking stall per nursing home bed.
  - c) .33 parking stall per employee on the largest shift.

In all residence districts, the board of aldermen may grant a special permit in accordance with the procedure in section 30-24 for the construction and operation of parking facilities accessory to a use in a business or manufacturing district; provided that no part of such parking facility is further than 150 feet from the boundary line of a business or manufacturing district and provided that the parking facility is within 500 feet of the lot on which the principal use is located. Such permission shall be given only if the facility for which a permit is requested is to be used solely for the parking or passenger automobile accessory to a use lawfully established in said business or manufacturing district. Such parking facilities are not to be used for sales, repair work or servicing of any kind, and no advertising sign or material is to be located on such lots.

**(g) Parking Facilities containing Five Stalls or Less**

A parking facility containing 5 stalls or less shall comply with the following requirements:

- (1) No parking stall shall be located within any required setback distances from a street and sidelines, except that, in conjunction with one or two family dwelling, one parking stall per dwelling unit may be locate within required setback and sideline distances. However, in no case shall a parking stall be setback less than 5' from the street.
- (2) The minimum dimensions of a parking stall shall be as following: stall width shall be at least 9'; stall depth shall be at least 19' for all angle parking and 21' for parallel parking.
- (3) The entrance and exit drives shall be a minimum of 12' wide and a maximum of 20' wide.

- (4) An outdoor parking facility shall be graded and surfaced to accommodate motor vehicles during all weather conditions.

**(h) Design of Parking Facilities**

The layout and design of parking stalls, maneuvering aisles, and driveways within parking facilities containing more than 5 stalls shall conform to the following requirements:

- (1) Setback distances shall be as follows:

No parking stall shall be located within any required setback distances from a street and sidelines, and shall, in any case be setback a minimum of 5' from the street. No outdoor parking shall be located within 5' of a building or structure containing dwelling units.

- (2) Minimum dimensions of parking stalls:

- a) Stall widths shall be at least 9'.
- b) Stall depth shall be at least 19' for all angle parking and 21' for parallel parking
- c) Parking facilities shall provide specially designated parking stall for the physically handicapped as follows:

Total Number of Stalls	Handicapped Stalls
6-25	1
26-40	2
41-100	4% but not less than 3 stalls
101-300	3% but not less than 4
301-800	2% but not less than 9
801+	1% but not less than 16

Handicapped stalls shall be clearly identified by a sign that states that these stalls area reserved for physically handicapped persons. Such stalls shall be located in that portion of the parking facility nearest the entrance to the use or structure which the parking facility serves. Handicapped stalls shall have a minimum stall width of at least 12' and a minimum stall depth of at least 19' for all angle parking and twenty-four feet for all parallel parking.

- d) Where stalls head into a curb which bumpers can overhang, the length of the stall may be reduced by 2' from the require stall depth dimensions; provided such bumper overhang distance shall not be used to meet the screening requirement () of this section.
- e) End stalls restricted on one or both sides by curbs, walls, fences or other obstruction shall have maneuvering space at the aisle end of at least 5' in depth and 9' in width.
- f) Stalls for the parking of noncommercial bans buses, or other vehicles exceeding 7½' by 18' in size shall be specifically identified on the off-street parking or loading plan and shall be of such dimensions as to accommodate the specified type of vehicle. Such vehicles shall be permitted to park only in the stalls so identified and approved by the building official.

- (3) Minimum width of maneuvering aisles:

- a) Minimum width of aisles providing access to stalls for one-way traffic shall be the following:

Angle of Parking Stall	Minimum maneuvering Aisle Width
Parallel	12'
30°	12'
45°	14'
60°	19'
90°	24'

b) Minimum width of maneuvering aisles providing access to stalls for two-way traffic shall be 20' of the width required above, whichever is greater.

(4) Entrances and exit driveways:

- a) Entrance and exit driveways shall be a minimum of 12' wide for one-way use only and a minimum of 20' wide for two-way use.
- b) The maximum width of entrance and exit driveways shall be 25' =, except in conjunction with loading facilities as provided in subsection (1) of this section.
- c) Driveways shall be located so as to minimize conflict with traffic on public streets and where good visibility and sight distances are available to observe approaching pedestrian and vehicular traffic.

(5) Design of stall layout

- a) Parking facilities shall be designed so that each motor vehicle may proceed to and from the parking space provided for it without requiring the moving of any other motor vehicle.
- b) The dimensional and stall layout requirements of this section may be modified by the board of aldermen, in accordance with the procedure provided in section 30-24 where a parking facility of portion thereof is under fulltime attendant supervision.

(i) Landscaping

(1) Screening

Outdoor parking facilities containing more than 5 stalls shall be screening from abutting streets and properties.

a) Screening materials shall be located along the perimeter of the parking facility abutting a street or properties other than the use or uses served by the parking facility. Screening shall consist of one or a combination of the following:

(i) A strip of at least 5' in width of densely planted shrubs or trees which are at least 3½ feet high at the time of planting and are of a type that may be expected to form a year-round screen;

(ii) A wall, barrier, or fence of uniform appearance. Such wall, barrier, or fence may be opaque or perforated provided that not more than 50% of the face is open. There shall be

a landscaped strip with a minimum width of 3' between the base of the wall, barrier, or fence and any street or abutting property. The wall, barrier or fence shall be at least 3' and not more than 6' in height.

(iii) A landscaped earth berm at least 3' in height and 18' in width.

b) Every effort shall be made to retain existing trees.

c) The screening as required herein shall be located so as not to conflict with any corner visibility requirement of any other city ordinances. Such screening may be interrupted by entrances or exits.

(2) Interior landscaping.

Outdoor parking facilities containing 20 stalls or more shall contain interior landscaping in accordance with the following requirements.

a) An area equivalent to at least 5% of the area of a parking facility with 20 stalls or more shall be landscaped and continuously maintained. Planting along the perimeter of a parking area, whether for required screening or general beautification, shall not be considered as part of the 5% interior landscaping.

b) An interior planting area shall consist of at least 20 square feet with no dimension less than 5'. At least one tree shall be planted in each such planting area and there shall be at least one tree for every 10 parking stalls. The interior landscaping shall be distributed within the parking facility.

c) Trees required by the provisions of this section shall be at least 3" in caliper at the time of planting and shall be species characterized by rapid growth and by suitability and hardiness for location in a parking lot.

d) Bumper overhang areas shall be landscaped with stone, woodchips, low plantings or other materials that will not be damaged as a result of bumper and oil drippings.

**(j) Lighting, Surfacing and Maintenance of Parking Facilities.**

Outdoor parking facilities containing more than 5 stalls shall be lighted, surfaced, and maintained in accordance with the following requirements:

(1) Lighting

a) All parking facilities which are used at night shall have security lighting. Lighting shall be so designed as to maintain a minimum intensity of 1 foot-candle on the entire surface of the parking facility.

b) All artificial lighting shall be arranged and shielded so as to prevent glare from the light source onto adjacent streets and properties.

(2) Surfacing and curbing

a) Parking facilities shall be surfaced, graded and drained to the satisfaction of the city engineer.

b) Parking facilities shall be surfaced with asphalt, concrete, or other durable material, except that less durable surfacing materials may be permitted on emergency access driveways and portions of the parking facility designated for infrequent overflow parking

c) Paved surfaces shall be marked with 4" painted lines or some other permanent curb or marking system so as to clearly indicate the stall to be occupied by each motor vehicle, in accordance with the dimensions specified in subsection (h) of this section, which dimensions shall be measured perpendicular to the curb or marking system.

d) parking facilities shall be drained so that surface water shall not drain onto public ways or abutting properties.

e) Curbing, wheel stops, guard rails, or bollards shall be placed at the edges of surfaces areas, except driveways, in order to protect landscaped areas.

f) Curb ramps with minimum width of 3' shall be provided to accommodate the movement of handicapped individuals.

**(3) Maintenance**

a) Parking shall be kept clean, plowed and free from rubbish, debris and snow. All [plant materials shall be maintained in a healthy conditions and whenever necessary shall be replaced with new plant materials to insure continued compliance with screening and interior landscaping requirements. All fences, barriers and walls shall be maintained in good repair and whenever necessary shall be replaced. Whenever necessary, the surfacing, lighting and marking shall be repaired or replaced.

**(k) Bicycle Parking (applies to lots of 20 or more cars only)**

**(l) Off-street Loading Requirements (apply to non-residential uses)**

**Sec. 30-20 Signs and other advertising devices (see pages 483 - 490 of the City of Newton Zoning By-Law)**

**Sec. 30-21 Applicability of chapter to existing building; nonconforming uses; prior permits (see pages 490 - 492 of the City of Newton Zoning By-Law)**

**ARTICLE IV ZONING ADMINISTRATION**

**Sec. 30-22 Review of Accessory Apartment Petitions (see pages 492 - 494 of the City of Newton Zoning By-Law)**

**Sec. 30-23 Site Plan Approval (required for an Open Space Preservation Development)**

**(a) Applicability**

Whenever site plan approval is required under the provisions of this ordinance, the procedure set forth in this section shall be followed.

**(b) Applications**

A written application for a site plan approval, on forms provided by the city clerk and accompanied by 15 sets of plans prepared as provided below, shall be submitted by delivery of registered mail, return receipt requested, to the city clerk, who shall transmit such application to the board of aldermen, and the department of planning and development. If the application is submitted by delivery, the city clerk shall give the applicant a written receipt therefor, indicating the date of such submission.

The plans submitted with an application for site plan approval shall be prepared, as appropriate, by an architect, landscape architect, professional engineer or land surveyor. Such site plans shall be drawn at a suitable scale on sheets no larger than 24" x 36", when more than 1 sheet is required, a key sheet shall be provided. The site plans shall include the following information:

- (1) Boundaries, dimensions and area of the subject lot(s)
- (2) Use, ownership, zoning of and existing buildings or structures on the subject lot(s); such information shall also be provided for all parcels adjacent to the subject lot(s);
- (3) Existing and proposed topography of the subject lot(s) at 2' intervals.
- (4) Existing and proposed easements, if any;
- (5) Existing and proposed wetlands and watercourses, if any;
- (6) All existing and proposed buildings structures, parking spaces maneuvering aisles, driveways, driveway openings, pedestrian walks, loading areas and natural areas and landscaping on the subject lot(s) with the dimensions thereof;
- (7) All facilities for sewage, refuse, and other waste disposal, for surface water drainage, utilities, proposed screening, surface treatment, exterior storage, lighting and landscaping, including fencing, walls, planting areas, and signs; or
- (8) Facade elevations and floor plans for any proposed new construction and/or alteration to the existing building or structure.

**(c) Procedures**

- (1) The board of aldermen or a committee thereof shall hold a public hearing within 65 days of the filing of an application for site plan approval. Notice of such public hearing shall be provided as are required by M.G.L. c. 40A § 11
- (2) When conducting a site plan approval, the board of aldermen shall consider the application in light of the following criteria:
  - a) Convenience and safety of vehicular and pedestrian movement within; the site and in relation to adjacent streets, properties or improvements, including regulation of the number, design and location of access driveways and the location and design of handicapped parking. The sharing of access driveways by adjoining sites is to be encouraged whenever feasible;
  - b) Adequacy of the methods for disposal of sewage, refuse and other wastes and of the methods of regulating surface water drainage;
  - c) Provision for off-street loading and unloading of vehicles incidental to the servicing of the buildings and related uses of the site;
  - d) Screening of parking areas and structures on the site from adjoining premises or from the street by walls, fences, plantings or other means. Location of parking between the street and existing or proposed structures shall be discouraged;

e) Avoidance of major topographical changes; tree and soil removal shall be minimized and any topographic changes shall be in keeping with appearance of neighboring developed areas;

f) Location of utility service lines underground whenever possible. Consideration site design, including the location and configuration of structures and the relationship of the sties structures to nearby structures in terms of major design elements including scale, materials, color, roof and cornice lines;

g) Avoidance of the removal or disruption of historic resources on or off-site. Historical resources as used herein include designated historical structures or sites, historical architectural elements or archaeological sites.

The board of aldermen may condition approval of a site plan submittal in a manner consistent with the objectives set forth in these criteria.

(3) Any approval of an application for site plan approval shall lapse not late than 1 year from the grant of such approval unless construction required by such site plan approval has begun. The board of aldermen may extend the period of time granted under this subsection for good cause, whether or not such period of time shall have expired, without the necessity of a further public hearing thereon, unless the board of its committee on land use shall vote to require a public hearing. Notwithstanding the above, no extensions shall be granted which shall extend the time for substantial exercise of the site plan approval for more than 2 years from the date of the grant of the requested relief.

(4) Site Plan approval from the board of aldermen for any purpose for which such approval is required under this ordinance shall be granted by a majority vote.

#### **Sec. 30-24 Special Permits**

(a) Whenever a special permit is required under the provisions of this ordinance, a written application for a special permit on forms provided by the city clerk and accompanied by plans prepared as provided in section 30-23 (b) shall be submitted by delivery or registered mail, return receipt requested, to the city clerk, who shall transmit such application to the board of aldermen and the department of planning and development. If the application is submitted by delivery, the city clerk shall give the applicant a written receipt therefor, indicating the date of such submission. **Whenever an application for a special permit is required under the provisions of the is ordinance, site plan approval in accordance with section 30-23 shall also be required and an application for such approval shall be filed concurrently with the application for special permit.**

(b) Contents of the application.

Each application for a special permit shall be accompanied by a site plan submission prepared in accordance with the provisions of section 30-23(b).

The applicant shall also submit one (1) massing model, prepared as appropriate by an architect, professional engineer of land surveyor, for any commercial and or multi-family development with a gross floor area of 20,000 square feet or more as follows: for a proposed development containing a gross floor area of 20,000 to 50,000 square feet, the massing model shall show the proposed development, all abutting properties and butters to such abutting properties; for a proposed development containing a gross floor area 50,001 to 100,000 square feet, the massing model shall show the proposed development and all properties within 500' from the lot line of the proposed development or all abutting properties and abutters to such abutting properties, whichever is greater, for a proposed development containing a gross floor area in excess of 100,000 square feet, the massing model shall show the proposed development and all properties within

1,000 feet of the lot line of the proposed development of all abutting properties and abutters to such abutting properties, whichever is greater.

(c) Procedures

(1) The board of aldermen or a committee thereof shall hold a public hearing within 65 days of the filing of an application for special permit. Notice of such public hearing shall be provided as required by M.G.L. c.40A §11.

(2) The board of aldermen shall act upon any application for special permit not later than 90 days following the public hearing.

(3) The application for special permit shall be deemed approved if the board of aldermen fails to act upon the application not later than 90 days following the public hearing.

(4) Any approval of an application for special permit shall lapse not later than 1 year from the grant of such approval unless substantial use of such special permit or construction required by such special permit has begun. The board of aldermen may extend the period of time granted under this subsection for good cause, whether or not such period of time shall have expired, without the necessity of a further public hearing thereon, unless the board of its committee on land use shall vote to require a public hearing. Notwithstanding the above, no extensions shall be granted which shall extend the time for substantial exercise of the special permit for more than 2 years from the date of the grant of the special permit.

(5) The Newton Biosafety Committee shall serve as an advisory body to the board of aldermen with regard to any application for a special permit filed pursuant to section 30-24. The biosafety committee shall be consulted by the board of aldermen for its recommendations on the siting of any institution intending to conduct recombinant DNA research or technology, which recommendations shall be in writing and shall be submitted within such time as the board of aldermen shall specify to assure said boards ability to act within the time periods set forth in section 30-24.

(6) A special permit from the board of aldermen for any purpose for which a permit is required under this ordinance shall be granted only by 2/3 vote of all the board of aldermen.

(d) The board of aldermen may grant a special permit when, in its judgment, the public convenience and welfare will be served, and subject to such conditions, safeguards and limitations as it may impose. The board of aldermen shall not approve any application for a special permit unless it finds, in its judgment, that the use of the site will be in harmony with the conditions, safeguards and limitations herein set forth and that the application meets all the following criteria (except that uses accessory to activities permitted as a matter of right and which activities are necessary in connection with scientific research or scientific development or related production may be permitted provided the board of aldermen finds that the proposed accessory use does not substantially derogate from the public good):

(1) The specific site is an appropriate location for such use, structure:

(2) The use as developed and operated will not adversely affect the neighborhood;

(3) There will be no nuisance or serious hazard to vehicles or pedestrians;

(4) Access to the site over streets is appropriate for the type(s) and number(s) of vehicles involved;

(e) *Refers to uses involving recombinant DNA*

(f) Residential Development



(1) Whenever an application for a special permit seeks to increase the density of residential development for apartment houses, hotels, garden apartments, attached dwellings, for the conversion of a structure to occupancy by more than one family pursuant to section 30-8(b)(10) or for the conversion of a structure to occupancy by more than one family pursuant to section 30-8(b)(10) or for the conversion of a structure to occupancy by more than 2 families pursuant to section 30-9(c)(1) or to a level greater than allowable as a matter of right the board of aldermen shall require as a condition of any such grant of such permit low income housing units pursuant to the provisions below. For the purposed of the application of se 30-24(f) the number of units which may be developed on an individual site as of right shall be determined by utilization of

(1) a subdivision plan analysis which would meet all the requirements for review and approval by the city engineer

(2) under the zoning classification for the subject parcel existing at the time of the request for special and

(3) without the grant of any special permit or variance with respect to the number of units allowed.'

There shall be provided, on site and within the development, low income dwelling units equal to 25% of the number of units granted which exceed the number of units granted which exceed the number of units allowed as of right. However, notwithstanding the above, the number of low-income dwelling units to be provided shall not exceed 20 percent of the total number of units in the development. The low-income dwelling units to be provided shall be equal in size, quality, amenities and characteristics to the other dwelling units within the development. The number of bedrooms in the low income dwelling units and the classification of the occupants (such as elderly, handicapped or family) shall be made by the board of aldermen at the time the special permit is granted;

(2) In the event that the residential development is non-rental, any low income dwelling unit to be provided shall be offered for sale to the City of Newton, or the appropriate municipal agency, at a price to be established by the city's or agency's funding source. Should no outside funding be available, the city at its option, may choose to appropriate the necessary funds to purchase the low income dwelling unit at a price established in a manner consistent with the method previously used to establish price by the funding source. Should there be no funding source, and should the city choose no to appropriate any funds then the developer shall execute a binding agreement with the city to make a cash payment to be used for low-income housing within the city. The amount of the cash payment shall be determined as follows: the developer shall pay the sales price received for the low income dwelling units, less usual brokerage fees, less the amount which would have been provided by the Massachusetts 705 program had such unit been sold to the city. In no event shall the sales price utilized in this procedure be less than the average sales price of the comparable units in the development. In the alternative, the developer shall make all such low income dwelling units available for lease through the Newton Housing Authority to eligible tenants under an State of Federal rent subsidy program which might be applicable, for a period of 40 years as specified below. The municipal agency responsible for the development of low income housing in the city shall make the final determination as to whether there shall be a cash payment of the provision of rental housing, based upon the assessment of the present needs of its program. Should there be no rent subsidy program the city shall have the option of continuing the lease, in which event the city shall be responsible to continue the rent subsidy under the same terms and conditions as though payment is being made by an outside funding source. If the low-income dwelling units are leased to the city the applicant and/or its successor shall select tenants from the Newton Hosing Authority waiting lists in NHA order and shall not charge to the tenant, as rent, an amount exceeding 30% if the tenants gross income, /Should the Newton Housing authority not have a waiting list of any eligible tenants, the developer shall annually certify to the satisfaction of the director of planing and development that the income of the low income tenants does not exceed 80% of the median family income for Metropolitan Boston.

(3) In the event that all dwelling units in a development, other than one owner-occupied unit, are to be rental dwelling units, the low-income dwelling units shall be leased to the City of Newton or its designee for use by the Newton Housing Authority for eligible tenants under any federal or state rental subsidy program which shall be available under an agreement for a term of 40 years (in 8 five-year increments which are automatically renewable). Such lease agreement shall be recorded in the Middlesex South Registry of Deeds. In the event that during the pendency of a lease period the federal Section 8 rental subsidy program is terminated and there is no similar federal or state replacement program and the city does not appropriate funds to continue to subsidize the low income units, the lease arrangement shall be modified as follows: the developer shall be required to lease the premises to the low income tenant for the remainder of the current 5 year term plus one additional 5 year term, at a rent level of 30% of the tenants adjusted gross income per HUD guidelines, or as that figure may be periodically adjusted by that agency. Should any rental development be converted to cooperative or condominium ownership, the City or the appropriate municipal agency shall be given an option to purchase the low income dwelling units leased to it or its designee at a price to be established by the city's or agency's funding source. Should no outside source funding be available the city at its option, may choose to appropriate the necessary funds to purchase the low income dwelling unit at a price established in a manner consistent with the method previously used to establish price by the funding source. Should there be no funding source, and should the city choose not to appropriate any funds, then the developer shall execute a binding agreement with the city to make a cash payment to be used for low-income housing within the city. The amount of the cash payment shall be determined as follows: the developer shall pay the sales price received for the low-income dwelling unit, less usual brokerage fees, less the amount which would have been provided by the Massachusetts 705 program had such unit been sold to the city. In no event shall the sales price utilized in this procedure be less than the average sales price of the comparable units in the development. If the city does not exercise its right to purchase the low-income units, the lease agreement for the remaining term of the original 40 years shall continue.

*(4) Refers to the terms of conveyance to the City of Newton*

(5) In determining the number of low income dwelling units to be provided in accordance with section 30-24(f) where 10 or more dwelling units are authorized by the special permit in the residential development, a fractional unit of .5 or more shall be regarded as a whole unit so that a fractional unit of .5 or more shall require the provision of a whole dwelling unit in satisfaction thereof and a fractional unit of .4 or less shall require no contribution in satisfaction of the fractional unit. Where less than 10 units are authorized by the special permit in the residential development, one low-income dwelling unit shall be provided, but such provision may be satisfied at the developer's option, by a cash payment from the applicant, the amount of which shall be determined in accordance with section 30-24(f)(6) to be used for low income housing within the city.

*(6) Refers to the formula for determining the cash payment.*

(7) Elderly Housing with Services

In order to provide affordable housing with services on-site the following requirement of section 30-24(f) shall apply when a petitioner seeks a special permit for housing with services which is designed primarily for elderly persons such as residential care facilities, continuing care retirement communities, assisted living communities, independent living communities, congregate care facilities and the like. The services to be provided by the petitioner shall be an integral part of the annual rental or occupancy related fee, shall be offered to all residents and may include in substantial measure long term health care services (any combination of nursing home, care, home health care, in-home nursing service, personal care, homemaking) and may include the provision of meals, scheduled transportation, convenience services and any other service offered to any residents including social cultural and educational programs. This section shall not apply to nursing homes which are authorized under the Massachusetts Department of Public Health Certificate of Need program or to developments funded under a state or federal housing program which required a greater number of units of beds than require under this section.

(a) Maximum contribution.

The petitioner shall contribute 2.5% of the annual gross revenue from fees for housing and all services if it is a rental development or an equivalent economic value in the case of a non-rental development. In both cases, the amount of such contribution shall be determined by the director of planning and development, based upon a analysis of verified financial statements provided by the petitioner as well as such other data as the department may deem relevant, including but not limited to debt services reduction and partial credits for outside subsidies for the development which may effectively increase the actual housing opportunity provided by the city.

b) Determination.

The city by its board of aldermen shall determine whether the contribution shall be units of beds and services on-site of a cash payment after recommendation by the director of planning and development. In determining the number of nits the director may consider the lever of services to be provided, any governmental or private subsidies available for housing and/or services and the ability of low and moderate income individuals s to contribute to the fees. The petitioner shall provide to the city the financial information necessary to make a precise determination under the formula. If the petitioner is to make a cash contribution, the contribution shall be deposited into the city's "Ten Percent Fund" as established under section 30-24.

c) Application.

The contributed units shall be made available to low and moderate income persons. Low and moderate-income persons shall be defined by the most recent income guidelines established by the U.S. Department of Housing and Urban Development.

d) Selection (refers to the method of selection of tenants)

e) Residual cash balance. (refers to the disposition of a residual cash balance)

*(8) Refers to contributions required for the development of a hotel.*

(9) An applicant for a residential development which must comply with the provisions of section 30-24(f) shall not segment nor divide nor subdivide property or establish surrogate or subsidiary business entities in order to evade the requirement of section 30-24(f) provided that this shall not prohibit an applicant from a phased development of his property.

(10) The board of aldermen shall not require and the city shall not accept dwelling unit of cash payment sin connection with the grant of any special permit other than as required by section 30-24(f).

(g) Conditions of Approval.

The board of aldermen shall not approve any application for a special permit unless it finds that said application complies in all respects with the requirements of this ordinance. In approving a special permit, the board of aldermen may attach such conditions, limitations, and safeguards as it deems necessary to protect or benefit the neighborhood, the zoning district and the City. Such conditions may include, but are not limited to, the following:

- (1) requirements of front side or rear yards greater than the minimum required by this ordinance
- (2) limitation of the number of occupants, size, method or time of operation or extent of facilities.

(3) requirement of off-street parking or other features beyond the minimum required by this or any other applicable ordinance.

# DENSITY & DIMENSIONAL CONTROLS IN RESIDENCE DISTRICTS AND FOR RESIDENTIAL USES

Zoning District	Minimum Required Lot Area	Lot Area Per Unit <sup>1</sup>	Frontage	Front	Setbacks	Rear	Total Floor Area Ratio <sup>4</sup>	Bldg Height <sup>2</sup>	Maximum of Stories <sup>3</sup>	Maximum Building Lot Coverage	Minimum Amount of Open Space	Build Factor (All Lots)
<b>SINGLE RESIDENCE 2</b>												
Single Dwelling Units	15,000	15,000	100	30	15	15	.3	30	2½	20%	65%	25
Lots created before 12/7/53	10,000	15,000	80	25	7.5	15	.3	30	2½	30%	50%	
<b>SINGLE RESIDENCE 3</b>												
Single Dwelling Units	10,000	10,000	80	30	10	10	.35	30	2½	30%	50%	20
Lots created before 12/7/53	7,000	10,000	70	25	7.5	15	.35	30	2½	30%	50%	

<sup>1</sup> This column is used for purposed of determining residential density in cases where more than one dwelling unit is provided on a lot.

<sup>2</sup> Building height shall also regulate structures.

<sup>3</sup> Allow three stories by special permit if the proposed structure is consistent with and not in derogation of the size scale and design of other structures in the neighborhood.

<sup>4</sup> Allow an increase in FAR by special permit if the proposed structure is consistent with and not in derogation of the size scale and design of other structures in the neighborhood. FAR requirements shall apply onto to: (1) all above-grade new construction; (2) total demolition of a single family residential structure of dwelling when the owner seeks to replace it with a two family structure or dwelling; (3) reconstruction where more than 50% of an existing structure is demolished and (4) in a multi-residence zoning district, construction of a second residential dwelling unit which lies in whole or part outside the walls, i.e. the existing footprint, of any existing residential dwelling unit.

Information Request DTE-1-16.

Please provide a detailed description of the City of Newton's role in this transaction. Include with this response any available information concerning the portion of the Property to be acquired by Newton, the dollar amount Newton will be paying for its share of the Property, and Newton's intended use of the Property, etc.

Response

The Company has no definitive information regarding the City of Newton's (the "City") role in the transaction, other than that it is a co-signatory to the Purchase and Sale Agreement for the limited purpose of acknowledging to the Company that it has a separate agreement with Cornerstone under which Cornerstone may request that the Company issue a deed for portions of the Property to the City, in exchange for a portion of the purchase price to be paid by the City. Although not confirmed by the Company, information responsive to the Department's question might be found on the City of Newton's website, [www.ci.newton.ma.us](http://www.ci.newton.ma.us).